



Fw: Soil removed from OU-1  
Carol Campbell  
to:  
Judy Hansen  
02/22/2011 07:58 AM  
Show Details

Libby 041

1258939 - R8 SDMS

2 Attachments



scan0010.jpg scan0011.jpg

Please print in color

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**From:** DC Orr [xcav8orr@hotmail.com]

**Sent:** 02/22/2011 07:27 AM MST

**To:** Bill Bischoff <billb@libby.org>; Sonya Pennock; <barbdesch@gmail.com>; <bigskylawyer@yahoo.com>; Doug Roll <dproll@yahoo.com>; <glena.young@cityoflibby.com>; <jim.hammons@cityoflibby.com>; Peggy Williams <flourgardener@yahoo.com>; Rebecca Thomas; <robinsdesk@yahoo.com>; vicky lawrence <montanavicky@gmail.com>; Tony Berget <tberget@libby.org>

**Cc:** Carol Campbell; Sean Earle; <candareports@gmail.com>; Duane Williams <klcb@frontiernet.net>; Lee Bothman <theprintingpress@gmail.com>; <news@montanian.com>

**Subject:** RE: Soil removed from OU-1

Mr. Bischoff and silent partners;

The highlighted area in scan 0010 makes it clear that EPA expected to either restore our property or pay cash compensation. The highlighted area in scan 0011 makes it clear that "building reconstruction" was the planned method of restoration. Since the infrastructure was not replaced, that leaves ONLY cash compensation.

In fact, according to Item # 2.15 in scan 0010, we even get to approve the drainage. Why has EPA made us fight for that when they know it is required?

EPA is hiding the appraisal that would tell us how much cash they owe us. We are going to need this cash to ever finish this Park. When we don't have money to finish this Park, I will hold each and every one of you accountable to the voters for failing to pursue restoration compensation.

Because EPA was going to remove ALL contamination, the only IC's required were to be in the repository at the mine. Now EPA is saying that IC's are required because they left material behind that leaves the pathways of exposure to a substance of unknown toxicity wide open. This issue is harming human health at OU-1.

Any of you who are compromised by your relationship to former Mayor, now Commissioner, Berget have got to either come off of the fence on this issue, or declare your conflicts of interest.

Mr. Bischoff has made clear his allegiance and our Attorney Payne has acknowledged his conflicts. Who amongst you would deny pursuing restoration compensation for the people you serve?

When Mr. Bischoff says that "lack of a response by Council members is not an indication of anything", he is misdirecting the issue. The entire "Tony team" and Mrs. Lawrence are not responding in an effort to avoid an issue where they have conflicts of interest. These conflicts must be dealt with by disclosure, not

concealment. Lack of response is an indication of complicity.

I believe, if disclosure comes forth, Councilwoman Williams and I are the only Council members not compromised in our ability to make decisions on OU-1. On this issue, there are only two members who can vote. If anyone disagrees, come forth and speak your piece.

I am asking our Clerk Hook to add this discussion to the public record contained in our minutes. Please leave it open for the responses from the other Council members now that Mr. Bischoff has responded.

We cannot move to Remedial Action on OU-1 until we clarify these issues.

Sincerely, DC Orr

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From: xcav8orr@hotmail.com  
To: billb@libby.org; pennock.sonya@epamail.epa.gov; barbdesch@gmail.com; bigskylawyer@yahoo.com; dproll@yahoo.com; glena.young@cityoflibby.com; jim.hammons@cityoflibby.com; flourgardener@yahoo.com; thomas.rebecca@epamail.epa.gov; robinsdesk@yahoo.com; montanavicky@gmail.com; tberget@libby.org  
CC: campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov  
Subject: RE: Soil removed from OU-1  
Date: Mon, 14 Feb 2011 15:22:44 -0700

Mr. Bischoff;

I fully expected Commissioner Bergets' executive assistant to respond in this manner. Thank you.

You have failed to voice any concrete opinion on the matter. Are you in agreement that we need to pursue the \$2 million in restoration compensation or not. What would be your specific reasons for wanting to let \$2 million slip through our fingers if you oppose these negotiations?

The other Council members will have to answer these same questions when we go to the voters for funding.

Sincerely, DC Orr

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From: billb@libby.org  
To: xcav8orr@hotmail.com; pennock.sonya@epamail.epa.gov; barbdesch@gmail.com; bigskylawyer@yahoo.com; dproll@yahoo.com; glena.young@cityoflibby.com; jim.hammons@cityoflibby.com; flourgardener@yahoo.com; thomas.rebecca@epamail.epa.gov; robinsdesk@yahoo.com; montanavicky@gmail.com; tberget@libby.org  
CC: campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov  
Subject: RE: Soil removed from OU-1  
Date: Mon, 14 Feb 2011 12:45:27 -0700

Mr. Orr:

Please clarify in the 7<sup>th</sup> (seventh) paragraph that this is your request and not the Council's. Your use of the word "our" infers that it is the Council's request.

Lack of response by Council members is not an indication of anything and should not be taken as any type of agreement with your actions or requests. (Refer to your last paragraph)

Bill Bischoff

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**From:** DC Orr [<mailto:xcav8orr@hotmail.com>]  
**Sent:** Monday, February 14, 2011 12:32 PM

**To:** pennock.sonya@epamail.epa.gov; barbdesch@gmail.com; bigskylawyer@yahoo.com; Bill Bischoff; Doug Roll; glena.young@cityoflibby.com; jim.hammons@cityoflibby.com; Peggy Williams; Rebecca Thomas; robinsdesk@yahoo.com; vicky lawrence; Tony Berget  
**Cc:** campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov  
**Subject:** RE: Soil removed from OU-1

Ms. Campbell;

EPA has stated that they would take another look at this issue if new information came into play. EPA has refused to look at new information when provided. EPA is being purposely deceptive on this issue in an effort to deceive and defraud the people of Libby out of their rightful restoration compensation.

The attached document shows that EPA's position that the buildings were in poor shape when Grace gave them to the City is a position without merit. The buildings were damaged, with EPA oversight, by WR Grace under Unilateral Administrative Order by EPA's own admission. Ms. Thomas obviously did not have this information when she made that statement and added it to the ROD. Please correct her misinformation and respond to EPA's admission that the buildings were harmed by EPA Unilateral Order.

EPA has also refused to acknowledge the new information in this document which shows that a Restoration Plan was required after demolition of City buildings was ordered by EPA. EPA has stated that no Restoration Plan was required after demolition of City buildings was ordered by EPA. EPA lied about this document before, and we found the document anyway. EPA is being purposely deceptive in their response concerning the Restoration Plan. This document states that a new Restoration Plan was being required after the order to demolish. Please correct your previous misinformation and supply the required Restoration Plan developed after the order to demolish City buildings.

Former City Councilman Dan Stephens submitted new information stating that the City Council never made any final decisions on OU-1. This new information directly conflicts with EPA's statement in the ROD that the City of Libby accepted a waterline in lieu of restoration compensation for the demolished buildings. EPA admits that there is no written agreement to accept this waterline. The lack of a written agreement is new information that challenges EPA's position on restoration compensation. Please correct your previous misinformation that was discredited by the new information.

Further new information will be forthcoming when EPA releases the appraisal documentation required under the UAO which I requested.

Further new information will be forthcoming when EPA requests the documents that WR Grace was required to retain as part of the UAO. I have requested EPA secure that information from Grace before the ten year retention period passes this coming summer as written in the UAO.

I have included the members of the City Council in this memorandum. Consider this our request to visit this issue publicly with EPA and have open negotiations for Restoration before moving to discussions on Remedial Action. Any sitting Councilperson who wants to oppose this move to obtain \$2 million for development of Riverfront Park has the opportunity to make their opposition clear in this public forum by responding via email with their reasons for opposing restoration compensation.

I have also included former Mayor Berget and will be asking him publicly to explain to this Council what he and the former Councilmembers can add to this discussion.

I have not included Commissioner Berget's attorney Allen Payne because Mr Payne has set conditions in his agreement with the City that exclude him from this conversation because of his conflicts.

A lack of response from Councilmembers can be taken as clear indication that every member is in agreement in moving toward Restoration of OU-1 before we discuss Remedial Action. Please have a public response to these new questions ready at our next meeting with EPA.

Sincerely, DC Orr

> Subject: RE: Soil removed from OU-1  
> To: xcav8orr@hotmail.com  
> CC: Campbell.Carol@epamail.epa.gov; Earle.Sean@epamail.epa.gov  
> From: Pennock.Sonya@epamail.epa.gov  
> Date: Mon, 14 Feb 2011 11:26:58 -0700  
>  
> EPA has responded previously that we consider the issue of the buildings  
> that were demolished during W.R. Grace's work at OU1 to be closed. If  
> the City Council considers it otherwise, the Council should let EPA  
> know.

>  
> Regarding the drainage issue, we have previously responded that we will  
> address drainage issues during the remedial action at OU1.  
>  
> Sonya Pennock  
> Office of Communications & Public Involvement  
> US/EPA Region 8  
> 1595 Wynkoop Street  
> Denver, CO 80202-1129  
> Phone: 303-312-6600  
>  
>  
>  
>  
> From: DC Orr <xcav8orr@hotmail.com>  
> To: Sonya Pennock/R8/USEPA/US@EPA, Sean Earle/R4/USEPA/US@EPA,  
> Carol Campbell/R8/USEPA/US@EPA  
> Date: 02/11/2011 06:47 AM  
> Subject: RE: Soil removed from OU-1  
>  
>  
>  
> Ms. Pennock;  
> It has been months since I disproved the EPA statements concerning  
> restoration plans on OU-1. Will EPA acknowledge receipt of this email  
> and explain the contradiction between their statements that a  
> Restoration Plan was not required after the order of demolition and the  
> requirement for a Restoration Plan found in this document?  
> Sincerely, DC Orr  
> From: xcav8orr@hotmail.com  
> To: pennock.sonya@epamail.epa.gov  
> Subject: FW: Soil removed from OU-1  
> Date: Mon, 11 Oct 2010 06:50:11 -0600  
>  
> Ms Pennock;  
> I don't see that you have ever responded to this information.  
> DC  
>  
> From: xcav8orr@hotmail.com  
> To: pennock.sonya@epamail.epa.gov  
> Subject: Soil removed from OU-1  
> Date: Thu, 2 Sep 2010 14:02:22 -0600  
>  
> Ms. Pennock;  
> The City Council has had discussions with EPA and Corps reps concerning  
> the drainage problems that cropped up on OU-1 after Removal Action.  
> I have attached a page from the Action Memorandum Amendment dated  
> July 20, 2001 which indicates that 14,149 cubic yards of material were  
> removed and only 12,500 brought in as backfill. This is probably why the  
> property no longer drains properly.  
> This page also refers to the damage done to those buildings during  
> abatement with EPA oversight. This discounts the statement in the ROD,  
> and Rebecca Thomas' 9-3-09 correspondence, that the buildings were in  
> bad shape. They were damaged by abatement beyond repair. With EPA  
> oversight.  
> Also, note the end of the last line in the first paragraph which

P  
> reads, "EPA will direct Grace to demolish the buildings, while  
> alternative restoration plans are being developed". EPA has stated that  
> the requirement for restoration plans was dropped when the buildings  
> were demolished. The statement is not supported by the public record  
> which requires a restoration plan be developed AFTER demolition. Please  
> supply this restoration plan to the Libby City Council. Make sure that  
> you let me know when you send it so I can request it from our Mayor. He  
> has a bad habit of "forgetting" to let Council know about his  
> correspondence with EPA.  
> Sincerely, DC Orr  
>

SOW

HAC

Unit 01 will be placed on top of the solid wastes, graded to a smooth, relatively flat surface acceptable to EPA.

### 2.13 Import Clean Backfill Material at Operable Unit 01

Unless otherwise determined by the EPA and the property owner the following backfill requirements shall be employed. Following removal of soil, the excavated areas of Operable Unit 01 will be covered with 12 inches of common fill and 6 inches of gravel compacted to be suitable for future asphalt paving. Areas not anticipated to be paved will be covered with 12 inches of common fill and 6 inches of topsoil and hydroseeded.

### 2.14 Backfill and Compact at Operable Unit 01

Backfill and compaction shall be accomplished with a smooth drum compactor for building pads, roads and parking lots, and padded drum compactor for all other surfaces. Compaction shall be to 90 percent of relative density to 3 feet below building pad grade and 95 percent less than 3 feet below building pad grade.

### 2.15 Grading

Finish elevations, lines and grades shall conform to the wishes of the current landowner.

### 2.16 Restoration

Respondent shall retain a certified appraiser to determine values of real and personal property affected by the Removal Action and use such appraisal to establish appropriate compensation to the owner and lessee of the Export Plant for property restoration. Respondent shall either restore property to the value established by this appraisal and agreed to by the property owner or pay cash compensation as agreed to by the property owner.

### 2.17 Closure and Institutional Controls

If the former vermiculite mine is used for disposal of material generated by this removal action, the Respondent will be responsible for establishing a plan and implementing institutional controls to protect the long-term integrity of this material. This plan shall be submitted for EPA approval along with the Work Plan. Once approved by EPA, Respondent shall implement the plan.

The exposure pathways at both the Export Plant and Screening Plant are known and complete. Given, the documented death and illnesses associated with similar exposure circumstances to the hazardous substances found in the Libby vermiculite, it is imperative that these actions be undertaken and completed in a timely manner.

2. Continued response actions are required to prevent, limit, or mitigate an emergency. If the request for a 12-month, \$2 million statutory exemption is not granted, the Removal Action will not be able to proceed to completion. Total costs of both Removal Actions (combined Screening Plant and Export Plant costs) are anticipated to exceed \$2 million due to the large size of the properties, the extensive amount of soil contamination, the need to temporarily relocate a residence at the Screening Plant and a business at the Export Plant, the difficulty in removing asbestos containing dust and fibers from buildings on each of the properties, the probable need to demolish some or all of the buildings, and extensive restoration needs. Given the short construction season in this mountainous part of northwest Montana (May-September), it is likely that some restoration activities (e.g, re-vegetation, building reconstruction) will carry over into the spring/summer of 2001. If the removal actions are not completed asbestos will continue to migrate from the two properties and residents and workers will continue to be exposed to airborne asbestos fibers.

3. Assistance from other government agencies is not anticipated on a timely basis for these Removal Actions. Neither the State nor the County has the response capabilities or resources to take any actions independently at the Site. No other mitigation actions are expected to occur to abate the threats described in this action memo. Consequently, the timely completion of this Removal Action can only be accomplished if this combined Removal Action and 12-month exemption and \$2 million request is approved.

## **VI. PROPOSED ACTIONS AND ESTIMATED COSTS**

### **A. Proposed Actions**

#### **1. Proposed action description**

To mitigate the threat to the public health and welfare or the environment posed by the asbestos present on the Screening Plant and the Export Plant, the proposed removal actions are outlined below. A more detailed Scope of Work for these projects is being developed with the assistance of the Department of Transportation -Volpe Engineering Center (DOT-Volpe), in conjunction with MDEQ. The removal will involve the following: